IN THE INCOME TAX APPELLATE TRIBUNAL
'SMC' BENCH, JAIPUR
(PHYSICAL HEARING)

Before: Shri Kuldip Singh, Judicial Member
And Shri Prakash, Accountant Member

ITA No: 1321/JPR/2025
Assessment Years: 2016-17

Deepak Sharma 44B, Mahaveer Colony Toll Tax, Sanganer, Jaipur **PAN: DCNPS6026J** **(Appellant)**	Vs	ITO, Ward 1(1), Jaipur **(Respondent)**

Assessee Represented: Sh. Shravan Kumar Gupta, Adv.
Revenue Represented: Sh. Ghanshyam Meena, JCIT

Date of hearing : 17-09-2026
Date of pronouncement : 08-10-2026

आदेश/ORDER

PER : PRAKASH, ACCOUNTANT MEMBER:-

1. This appeal by the Assessee is directed against the order of the learned Commissioner of Income Tax (Appeals), National Faceless Appeal Centre, Delhi [hereinafter referred to as "the learned CIT(A)"] dated 30.07.2025 arising out of the assessment order dated 06.04.2023 passed by the Assessing Officer (hereinafter referred to as "the AO") under section 147 read with section 144 and section 144B of the Income Tax Act, 1961 (hereinafter referred to as "the Act") for the Assessment Year 2016-17.

2. The grounds of appeal raised by the Assessee before us in the memorandum of appeal in Form No. 36 read as under:

> *"1. The impugned order u/s 147 rws 144 of the I.T. Act, 1961 dated 06.04.2023 as well as the action taken u/s 147/148 notices u/s 148A(b), 148A(d), 148 and other notices are illegal, bad in law and on the facts of the case for want of jurisdiction, without proper satisfaction, approval, and being the third party search case u/s 132 before 01.04.2021, and various other reasons or bared by limitation and further contrary to the real facts of the case, hence the same may kindly be quashed.*
>
> *2. Rs 12,48,100/-: The ld. CIT(A) has grossly erred in law as well as on the facts of the case in confirming the addition of Rs.12,48,100/- made by the ld. AO on account of alleged Short Term Capital Gain by taking the sale value or consideration at Rs.17,25,000/- in place of actual sale consideration of Rs.3,51,000/- received. The Ld. AO and CIT(A) have also erred in not considering the vital facts and material available on record in their true perspective and sense. Hence the addition so made by the ld. AO and confirmed by the ld. CIT(A) are also being contrary to the real facts of the case and not according to the provision of law, hence the same is illegal, bad in law, against the principle of natural justice the same may kindly be deleted in full.*
>
> *3. The ld. AO has grossly erred in law as well as on the facts of the case in charging the interest u/s 234A, B,C. The interest so charged is being totally contrary to the provision of law and on facts of the case and hence same may kindly be deleted in full.*
>
> *4. That the appellant prays your honour indulgences to add, amend or alter of or any of the grounds of the appeal on or before the date of hearing."*

3. Briefly stated, the facts of the case are that the assessee, an individual, filed the return of income for the year under consideration declaring total income of Rs 2,68,300. During the year, the assessee sold Plot No. 109, Bhaskar Enclave-A, Village Murlipura, Tehsil Chaksu, Jaipur, measuring 250 square yards, under a registered sale deed dated 04.09.2015 for Rs

3,51,000. The plot had been purchased on 08.05.2015 for Rs 4,75,000. A search under section 132 of the Act was conducted in the case of the Chandra Prakash Agarwal Group on 28.07.2016. In the post search investigation, the assessee was summoned, and in the statement recorded under section 131 of the Act on 30.11.2016 the assessee stated that the plot was sold at Rs 6,900 per square yard, that is, for Rs 17,25,000, of which Rs 3,51,000 was received by cheque and Rs 13,74,000 in cash. On this information, the assessment was reopened. The relevant events are as under:

Date	Event
23.04.2021	Notice under section 148 (old regime) issued by the ITO, Ward 1(1), Jaipur
27.05.2022	Letter treating the above notice as a show cause notice under section 148A(b) of the Act, in terms of Union of India v. Ashish Agarwal, with the information relied upon; reply called for by 13.06.2022
13.06.2022	Reply of the assessee retracting the statement dated 30.11.2016 and objecting to the reopening
22.07.2022	Approval of the Principal Commissioner of Income Tax-1, Jaipur, letter No. Pr. CIT-I/ITO(T&J)/JPR/2022-23/1144
25.07.2022	Order under section 148A(d) and notice under section 148 of the Act, both stating the above approval
06.04.2023	Assessment order under section 147 read with section 144 and section 144B of the Act

4. The assessee did not file a return in response to the notice under section 148 of the Act. In the assessment proceedings, the assessee retracted the statement by an affidavit, and relied on the registered sale and purchase deeds, the bank statements, an affidavit of the broker and the sale deed of the adjacent Plot No. 110 sold on the same day for the same consideration. The AO did not accept the retraction, adopted the sale consideration at Rs 17,25,000 and computed short term capital gain of Rs 12,48,100 after deducting the purchase price of Rs 4,76,900. The total income was assessed at Rs 15,16,400.

5. Before the learned CIT(A), the assessee raised grounds only on the merits of the addition. The learned CIT(A) held that the retraction, made by an affidavit dated 03.03.2023 long after the statement, was an afterthought, confirmed the addition of Rs 12,48,100 and dismissed the appeal.

6. At the hearing, the learned Authorised Representative (hereinafter referred to as "the learned AR") addressed arguments on Ground No. 1, on the validity of the sanction under section 151 of the Act. It was submitted that the three years from the end of the Assessment Year 2016-17 expired on 31.03.2020; that, even with the extension under the Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (hereinafter referred to as "TOLA"), the Principal Commissioner could grant sanction only up to 30.06.2021; and that the order under section 148A(d) and the notice under section 148 dated 25.07.2022 required the sanction of the Principal Chief Commissioner or the Chief Commissioner under section 151(ii) of the Act, whereas the sanction was granted by the Principal Commissioner of Income Tax-1, Jaipur. Reliance was placed on ***Blackstone Overseas (P.) Ltd. v. ITO (ITA Nos. 2026 & 2027/KOL/2025)*** dated 18.12.2025 and ***Hiteshkumar Poptabhai Borad v. ACIT (ITA No. 1262/SRT/2025)*** dated 23.07.2026.

7. The learned Departmental Representative (hereinafter referred to as "the learned DR") relied on the orders of the AO and the learned CIT(A).

8. We have heard the rival submissions and perused the material on record. Ground No. 1 was not raised before the learned CIT(A). It is, however, a pure question of law which goes to the root of the jurisdiction of the AO. The facts needed to decide it are on record and are not in dispute. The order under section 148A(d) dated 25.07.2022 (page 10 of the paper book) and the notice under section 148 of the same date (page 12 of the paper

book) both state that they were passed and issued with the prior approval of the Principal Commissioner of Income Tax-1, Jaipur, accorded on 22.07.2022. Following the decision in ***National Thermal Power Co. Ltd. v. CIT [1998] 229 ITR 383 (SC)***, the ground is admitted.

9. Section 151 of the Act, as substituted by the Finance Act, 2021 and as it stood when the approval was granted, reads as under:

> *"151. Specified authority for the purposes of section 148 and section 148A shall be,—*
>
> *(i) Principal Commissioner or Principal Director or Commissioner or Director, if three years or less than three years have elapsed from the end of the relevant assessment year;*
>
> *(ii) Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General, if more than three years have elapsed from the end of the relevant assessment year:"*

The section thus ties the level of the sanctioning authority to the time that has elapsed from the end of the assessment year. The higher the age of the assessment, the higher the authority whose sanction is required.

10. The effect of TOLA on section 151 of the Act, for notices which were deemed to be show cause notices under ***Union of India v. Ashish Agarwal [2022] 444 ITR 1 (SC)***, has been settled by the Hon'ble Supreme Court in ***Union of India v. Rajeev Bansal [2024] 469 ITR 46 (SC)***. The Hon'ble Court held in paragraphs 78 and 81 as under:

> *"78. For example, the three year time limit for assessment year 2017-2018 falls for completion on 31st March 2021. It falls during the time period of 20th March 2020 and 31st March 2021, contemplated under section 3(1) of TOLA. Resultantly, the authority specified under section 151(i) of the new regime can grant sanction till 30th June 2021.*

...

81. This Court in Ashish Agarwal (supra) directed the assessing officers to "pass orders in terms of Section 148-A(d) in respect of each of the assesses concerned." Further, it directed the assessing officers to issue a notice under Section 148 of the new regime "after following the procedure as required under section 148-A." Although this Court waived off the requirement of obtaining prior approval under section 148A(a) and Section 148A(b), it did not waive the requirement for Section 148A(d) and Section 148. Therefore, the assessing officer was required to obtain prior approval of the specified authority according to Section 151 of the new regime before passing an order under section 148A(d) or issuing a notice under section 148. These notices ought to have been issued following the time limits specified under section 151 of the new regime read with TOLA, where applicable."

11. Applying the above, the position in the present case is as under:

Particulars	**Date**
End of the Assessment Year 2016-17	31.03.2017
Three years from the end of the assessment year	31.03.2020
Sanction by the authority under section 151(i), as extended by TOLA, available up to	30.06.2021
Approval actually granted by the Principal Commissioner of Income Tax-1, Jaipur	22.07.2022
Order under section 148A(d) and notice under section 148	25.07.2022

The three year period for the Assessment Year 2016-17 ended on 31.03.2020, which falls within the window of 20.03.2020 to 31.03.2021 under section 3(1) of TOLA. The Principal Commissioner could, therefore, grant sanction only up to 30.06.2021. The order under section 148A(d) and the notice under section 148 were issued more than a year later, on 25.07.2022. On that date, more than three years had elapsed from the end of the relevant assessment year, and the specified authority was the one named in section 151(ii) of the Act, namely the Principal Chief

Commissioner or the Chief Commissioner. The sanction was granted instead by the Principal Commissioner, an authority under section 151(i) of the Act, who was no longer competent to grant it.

12. The issue is squarely covered by the decision of the Hon'ble Bombay High Court in ***Ramesh Bachulal Mehta v. ITO [2025] 177 taxmann.com 606 (Bom)***, which also concerned the Assessment Year 2016-17 and an order under section 148A(d) passed in July 2022 with the approval of the Principal Commissioner. Following ***Rajeev Bansal (supra)***, the Hon'ble High Court held in paragraphs 9 and 11 as under:

> *"9. In the present case the period of three years from the end of the Assessment Year 2016-17 fell for completion on 31st March 2020. Since the expiry date fell during the time period of 20th March 2020 and 31st March 2021 contemplated under Section 3(1) of Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Act, 2020 (for short "TOLA"), the authority specified under Section 151(i) of the new regime could have granted sanction till 30th June 2021. On perusal of the order, dated 13.07.2022, passed under Section 148A(d) of the Act, we find that the aforesaid order was passed after taking approval from Principal Commissioner of Income Tax (Respondent No.2). Since the aforesaid order was passed after the expiry of three years from the end of the Assessment Year 2016-17, as per the substituted provisions of re-assessment, the authority specified under Section 151(ii) of the Act (i.e. Principal Chief Commissioner or Chief Commissioner) was required to grant approval. Accordingly, we conclude that in the present case the approval has been obtained from the authority specified under Section 151(i) of the new regime instead of the authority specified under Section 151(ii) of the new regime.*
>
> *...*
>
> *11. Non-compliance by Respondent No.1 with the provisions contained in Section 148A(d) read with Section 151(ii) vitiates the jurisdiction of the Respondent No. 1 to issue a notice under Section 148 of the Act."*

The facts before us are identical in every material respect.

13. The decisions relied on by the learned AR, ***Blackstone Overseas (P.) Ltd. (supra)*** and ***Hiteshkumar Poptabhai Borad (supra)***, relate to the Assessment Year 2018-19, where TOLA had no role. They nevertheless support the same principle: where the order under section 148A(d) and the notice under section 148 are issued after three years from the end of the assessment year, sanction by an authority under section 151(i) instead of section 151(ii) of the Act renders the notice and the consequent assessment invalid. Both Benches also held that the proviso inserted in section 151 of the Act by the Finance Act, 2023 takes effect only from 01.04.2023 and cannot validate a sanction granted earlier. In the present case, the sanction was granted on 22.07.2022 and the notice issued on 25.07.2022, so the proviso has no application.

14. Sanction by the authority named in section 151 of the Act is a condition precedent to the assumption of jurisdiction under section 148 of the Act. It is not a procedural formality that can be cured under section 292B of the Act. The statute hands the key to reopen an old assessment to a named authority, and only that authority can turn it. Since the order under section 148A(d) and the notice under section 148 dated 25.07.2022 were issued without the sanction of the authority specified in section 151(ii) of the Act, they are invalid. The reassessment order dated 06.04.2023, which rests on them, has no legal foundation and is quashed. Ground No. 1 is allowed to this extent.

15. As the reassessment is quashed on the issue of sanction, we do not examine the other limbs of Ground No. 1. Ground No. 2, which challenges the addition of Rs 12,48,100 on merits, has become academic and is not adjudicated. The contentions of both parties on these issues are left open.

Ground No. 3, on interest under sections 234A, 234B and 234C of the Act, is consequential and does not survive. Ground No. 4 is general in nature and needs no adjudication.

16. In the result, **the appeal filed by the Assessee is allowed**.

Order pronounced in the open court on 08.10.2026

Sd/-	**Sd/-**
(KULDIP SINGH)	**(PRAKASH)**
JUDICIAL MEMBER	**ACCOUNTANT MEMBER**

Dated 08/10/2026

**Ganesh Kr., Sr. PS*

आदेशकीप्रतिलिपिअग्रेषित / Copy of Order Forwarded to:-

1. Assessee
2. Revenue
3. Concerned CIT
4. CIT (A)
5. DR, ITAT
6. Guard file.

By order/**आदेश से**,
सहायक पंजीकार
आयकर अपीलीय अधिकरण, जयपुर